

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 20

FOLEY ELECTRIC, INC.

Employer

and

Case 20-RC-123999

IBEW LOCAL UNION 332, AFL-CIO

Petitioner

ERRATUM

The Region informed the parties informally some days ago that it had inadvertently left out of the Decision that issued on April 3, 2014, notice that the *Daniel-Steiny* formula will apply to voter eligibility in this matter, and issues this *Erratum* formally to correct that omission.

Application of *Daniel-Steiny* Formula. The Board has a long-established policy to favor and not restrict eligibility to vote. *Ameritech Communications*, 297 NLRB 654 (1990). In *Daniel Construction Company, Inc.*, 133 NLRB 264 (1961), modified at 167 NLRB 1078 (1967), the Board recognized that in the construction industry, intermittent employment is common; employees may work for short periods on several different projects for several different employers during the same year. Therefore, the Board in *Daniel* established an eligibility formula to ensure that all employees with a reasonable expectation of future employment with a construction industry employer would have the fullest opportunity to participate in a representational election.¹ In *Steiny and Company*, 308 NLRB 1323 (1992), the Board held that the *Daniel* formula is applicable to all construction industry elections regardless of whether the

¹ In *Daniel*, supra at 1078-1079, the Board stated that:

In addition to those in the unit who were employed during the payroll period immediately preceding the date of the Decision and Direction of Election, all employees in the unit who have been employed for a total of 30 days or more within a period of 12 months, or who have had some employment in that period and who have been employed 45 days or more within 24 months immediately preceding the eligibility date for the election hereinafter directed, shall be eligible to vote.

employer hires on a project-by-project basis or has a stable group of core employees. As it is clear from the record that the Employer is a construction industry employer and the parties have not stipulated to the use of another eligibility formula, I find that the *Daniel* formula as modified by *Steiny and Company*, is properly applied in this case.

DATED AT San Francisco, California this 10th day of April 2014.

/s/ J.F. Frankl

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